

106TH CONGRESS
1ST SESSION

S. 335

AMENDMENT

In the House of Representatives, U. S.,

November 9, 1999.

Resolved, That the bill from the Senate (S. 335) entitled “An Act to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to sweepstakes, skill contests, facsimile checks, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 *SECTION 1. TABLE OF CONTENTS.*

2 *The table of contents for this Act is as follows:*

Sec. 1. Table of contents.

TITLE I—DECEPTIVE MAIL PREVENTION AND ENFORCEMENT

Sec. 101. Short title.

Sec. 102. Restrictions on mailings using misleading references to the United States Government.

Sec. 103. Restrictions on sweepstakes and deceptive mailings.

Sec. 104. Postal service orders to prohibit deceptive mailings.

Sec. 105. Temporary restraining order for deceptive mailings.

Sec. 106. Civil penalties and costs.

Sec. 107. Administrative subpoenas.

Sec. 108. Requirements of promoters of skill contests or sweepstakes mailings.

Sec. 109. State law not preempted.

Sec. 110. Technical and conforming amendments.

Sec. 111. Effective date.

TITLE II—FEDERAL RESERVE BOARD RETIREMENT PORTABILITY

Sec. 201. Short title.

Sec. 202. Portability of service credit.

Sec. 203. Certain transfers to be treated as a separation from service for purposes of the thrift savings plan.

Sec. 204. Clarifying amendments.

**TITLE III—AMENDMENT TO THE FEDERAL PROPERTY AND
ADMINISTRATIVE SERVICES ACT OF 1949**

Sec. 301. Transfer of certain property to State and local governments.

1 TITLE I—DECEPTIVE MAIL PRE-
2 VENTION AND ENFORCEMENT

3 SEC. 101. SHORT TITLE.

4 This title may be cited as the “Deceptive Mail Preven-
5 tion and Enforcement Act”.

6 SEC. 102. RESTRICTIONS ON MAILINGS USING MISLEADING
7 REFERENCES TO THE UNITED STATES GOV-
8 ERNMENT.

9 Section 3001 of title 39, United States Code, is
10 amended—

11 (1) in subsection (h)—

12 (A) in the first sentence by striking “con-
13 tains a seal, insignia, trade or brand name, or
14 any other term or symbol that reasonably could
15 be interpreted or construed as implying any
16 Federal Government connection, approval or en-
17 dorsement” and inserting the following: “which
18 reasonably could be interpreted or construed as
19 implying any Federal Government connection,
20 approval, or endorsement through the use of a
21 seal, insignia, reference to the Postmaster Gen-
22 eral, citation to a Federal statute, name of a

1 *Federal agency, department, commission, or pro-*
 2 *gram, trade or brand name, or any other term*
 3 *or symbol; or contains any reference to the Post-*
 4 *master General or a citation to a Federal statute*
 5 *that misrepresents either the identity of the mail-*
 6 *er or the protection or status afforded such mat-*
 7 *ter by the Federal Government”; and*

8 *(B) in paragraph (2)—*

9 *(i) in subparagraph (A) by striking*
 10 *“and” at the end;*

11 *(ii) in subparagraph (B) by striking*
 12 *“or” at the end and inserting “and”; and*

13 *(iii) by inserting after subparagraph*
 14 *(B) the following:*

15 *“(C) such matter does not contain a false*
 16 *representation stating or implying that Federal*
 17 *Government benefits or services will be affected*
 18 *by any purchase or nonpurchase; or”;*

19 *(2) in subsection (i) in the first sentence—*

20 *(A) in the first sentence by striking “con-*
 21 *tains a seal, insignia, trade or brand name, or*
 22 *any other term or symbol that reasonably could*
 23 *be interpreted or construed as implying any*
 24 *Federal Government connection, approval or en-*
 25 *dorsement” and inserting the following: “which*

1 *reasonably could be interpreted or construed as*
 2 *implying any Federal Government connection,*
 3 *approval, or endorsement through the use of a*
 4 *seal, insignia, reference to the Postmaster Gen-*
 5 *eral, citation to a Federal statute, name of a*
 6 *Federal agency, department, commission, or pro-*
 7 *gram, trade or brand name, or any other term*
 8 *or symbol; or contains any reference to the Post-*
 9 *master General or a citation to a Federal statute*
 10 *that misrepresents either the identity of the mail-*
 11 *er or the protection or status afforded such mat-*
 12 *ter by the Federal Government”; and*

13 *(B) in paragraph (2)—*

14 *(i) in subparagraph (A) by striking*
 15 *“and” at the end;*

16 *(ii) in subparagraph (B) by striking*
 17 *“or” at the end and inserting “and”; and*

18 *(iii) by inserting after subparagraph*
 19 *(B) the following:*

20 *“(C) such matter does not contain a false*
 21 *representation stating or implying that Federal*
 22 *Government benefits or services will be affected*
 23 *by any contribution or noncontribution; or”;*

24 *(3) by redesignating subsections (j) and (k) as*
 25 *subsections (m) and (n), respectively; and*

1 (4) by inserting after subsection (i) the following:

2 “(j)(1) Any matter otherwise legally acceptable in the
3 mails which is described in paragraph (2) is nonmailable
4 matter, shall not be carried or delivered by mail, and shall
5 be disposed of as the Postal Service directs.

6 “(2) Matter described in this paragraph is any matter
7 that—

8 “(A) constitutes a solicitation for the purchase of
9 or payment for any product or service that—

10 “(i) is provided by the Federal Government;
11 and

12 “(ii) may be obtained without cost from the
13 Federal Government; and

14 “(B) does not contain a clear and conspicuous
15 statement giving notice of the information set forth in
16 clauses (i) and (ii) of subparagraph (A).”.

17 **SEC. 103. RESTRICTIONS ON SWEEPSTAKES AND DECEP-**
18 **TIVE MAILINGS.**

19 Section 3001 of title 39, United States Code, is amend-
20 ed by inserting after subsection (j) (as added by section
21 102(4)) the following:

22 “(k)(1) In this subsection—

23 “(A) the term ‘clearly and conspicuously dis-
24 played’ means presented in a manner that is readily

1 noticeable, readable, and understandable to the group
 2 to whom the applicable matter is disseminated;

3 “(B) the term ‘facsimile check’ means any matter
 4 that—

5 “(i) is designed to resemble a check or other
 6 negotiable instrument; but

7 “(ii) is not negotiable;

8 “(C) the term ‘skill contest’ means a puzzle,
 9 game, competition, or other contest in which—

10 “(i) a prize is awarded or offered;

11 “(ii) the outcome depends predominately on
 12 the skill of the contestant; and

13 “(iii) a purchase, payment, or donation is
 14 required or implied to be required to enter the
 15 contest; and

16 “(D) the term ‘sweepstakes’ means a game of
 17 chance for which no consideration is required to
 18 enter.

19 “(2) Except as provided in paragraph (4), any matter
 20 otherwise legally acceptable in the mails which is described
 21 in paragraph (3) is nonmailable matter, shall not be car-
 22 ried or delivered by mail, and shall be disposed of as the
 23 Postal Service directs.

24 “(3) Matter described in this paragraph is any matter
 25 that—

1 “(A)(i) includes entry materials for a sweep-
 2 stakes or a promotion that purports to be a sweep-
 3 stakes; and

4 “(ii)(I) does not contain a statement that dis-
 5 closes in the mailing, in the rules, and on the order
 6 or entry form, that no purchase is necessary to enter
 7 such sweepstakes;

8 “(II) does not contain a statement that discloses
 9 in the mailing, in the rules, and on the order or entry
 10 form, that a purchase will not improve an individ-
 11 ual’s chances of winning with such entry;

12 “(III) does not state all terms and conditions of
 13 the sweepstakes promotion, including the rules and
 14 entry procedures for the sweepstakes;

15 “(IV) does not disclose the sponsor or mailer of
 16 such matter and the principal place of business or an
 17 address at which the sponsor or mailer may be con-
 18 tacted;

19 “(V) does not contain sweepstakes rules that
 20 state—

21 “(aa) the estimated odds of winning each
 22 prize;

23 “(bb) the quantity, estimated retail value,
 24 and nature of each prize; and

1 “(cc) the schedule of any payments made
2 over time;

3 “(VI) represents that individuals not purchasing
4 products or services may be disqualified from receiv-
5 ing future sweepstakes mailings;

6 “(VII) requires that a sweepstakes entry be ac-
7 companied by an order or payment for a product or
8 service previously ordered;

9 “(VIII) represents that an individual is a win-
10 ner of a prize unless that individual has won such
11 prize; or

12 “(IX) contains a representation that contradicts,
13 or is inconsistent with sweepstakes rules or any other
14 disclosure required to be made under this subsection,
15 including any statement qualifying, limiting, or ex-
16 plaining the rules or disclosures in a manner incon-
17 sistent with such rules or disclosures;

18 “(B)(i) includes entry materials for a skill con-
19 test or a promotion that purports to be a skill contest;
20 and

21 “(ii)(I) does not state all terms and conditions
22 of the skill contest, including the rules and entry pro-
23 cedures for the skill contest;

24 “(II) does not disclose the sponsor or mailer of
25 the skill contest and the principal place of business or

1 *an address at which the sponsor or mailer may be*
 2 *contacted; or*

3 *“(III) does not contain skill contest rules that*
 4 *state, as applicable—*

5 *“(aa) the number of rounds or levels of the*
 6 *contest and the cost to enter each round or level;*

7 *“(bb) that subsequent rounds or levels will*
 8 *be more difficult to solve;*

9 *“(cc) the maximum cost to enter all rounds*
 10 *or levels;*

11 *“(dd) the estimated number or percentage of*
 12 *entrants who may correctly solve the skill contest*
 13 *or the approximate number or percentage of en-*
 14 *trants correctly solving the past 3 skill contests*
 15 *conducted by the sponsor;*

16 *“(ee) the identity or description of the*
 17 *qualifications of the judges if the contest is*
 18 *judged by other than the sponsor;*

19 *“(ff) the method used in judging;*

20 *“(gg) the date by which the winner or win-*
 21 *ners will be determined and the date or process*
 22 *by which prizes will be awarded;*

23 *“(hh) the quantity, estimated retail value,*
 24 *and nature of each prize; and*

1 “(ii) the schedule of any payments made
2 over time; or

3 “(C) includes any facsimile check that does not
4 contain a statement on the check itself that such check
5 is not a negotiable instrument and has no cash value.

6 “(4) Matter that appears in a magazine, newspaper,
7 or other periodical shall be exempt from paragraph (2) if
8 such matter—

9 “(A) is not directed to a named individual; or

10 “(B) does not include an opportunity to make a
11 payment or order a product or service.

12 “(5) Any statement, notice, or disclaimer required
13 under paragraph (3) shall be clearly and conspicuously dis-
14 played. Any statement, notice, or disclaimer required under
15 subclause (I) or (II) of paragraph (3)(A)(ii) shall be dis-
16 played more conspicuously than would otherwise be re-
17 quired under the preceding sentence.

18 “(6) In the enforcement of paragraph (3), the Postal
19 Service shall consider all of the materials included in the
20 mailing and the material and language on and visible
21 through the envelope or outside cover or wrapper in which
22 those materials are mailed.

23 “(l)(1) Any person who uses the mails for any matter
24 to which subsection (h), (i), (j), or (k) applies shall adopt
25 reasonable practices and procedures to prevent the mailing

1 of such matter to any person who, personally or through
 2 a conservator, guardian, or individual with power of
 3 attorney—

4 “(A) submits to the mailer of such matter a writ-
 5 ten request that such matter should not be mailed to
 6 such person; or

7 “(B)(i) submits such a written request to the at-
 8 torney general of the appropriate State (or any State
 9 government officer who transmits the request to that
 10 attorney general); and

11 “(ii) that attorney general transmits such re-
 12 quest to the mailer.

13 “(2) Any person who mails matter to which subsection
 14 (h), (i), (j), or (k) applies shall maintain or cause to be
 15 maintained a record of all requests made under paragraph
 16 (1). The records shall be maintained in a form to permit
 17 the suppression of an applicable name at the applicable ad-
 18 dress for a 5-year period beginning on the date the written
 19 request under paragraph (1) is submitted to the mailer.”.

20 **SEC. 104. POSTAL SERVICE ORDERS TO PROHIBIT DECEP-**
 21 **TIVE MAILINGS.**

22 Section 3005(a) of title 39, United States Code, is
 23 amended—

24 (1) by striking “or” after “(h),” each place it ap-
 25 pears; and

1 (2) by inserting “, (j), or (k)” after “(i)” each
2 place it appears.

3 **SEC. 105. TEMPORARY RESTRAINING ORDER FOR DECEP-**
4 **TIVE MAILINGS.**

5 (a) *IN GENERAL.*—Section 3007 of title 39, United
6 States Code, is amended—

7 (1) by redesignating subsection (b) as subsection
8 (c); and

9 (2) by striking subsection (a) and inserting the
10 following:

11 “(a)(1) *In preparation for or during the pendency of*
12 *proceedings under section 3005, the Postal Service may,*
13 *under the provisions of section 409(d), apply to the district*
14 *court in any district in which mail is sent or received as*
15 *part of the alleged scheme, device, lottery, gift enterprise,*
16 *sweepstakes, skill contest, or facsimile check or in any dis-*
17 *trict in which the defendant is found, for a temporary re-*
18 *straining order and preliminary injunction under the pro-*
19 *cedural requirements of rule 65 of the Federal Rules of Civil*
20 *Procedure.*

21 “(2)(A) *Upon a proper showing, the court shall enter*
22 *an order which shall—*

23 “(i) *remain in effect during the pendency of the*
24 *statutory proceedings, any judicial review of such*

1 *proceedings, or any action to enforce orders issued*
 2 *under the proceedings; and*

3 *“(ii) direct the detention by the postmaster, in*
 4 *any and all districts, of the defendant’s incoming*
 5 *mail and outgoing mail, which is the subject of the*
 6 *proceedings under section 3005.*

7 *“(B) A proper showing under this paragraph shall re-*
 8 *quire proof of a likelihood of success on the merits of the*
 9 *proceedings under section 3005.*

10 *“(3) Mail detained under paragraph (2) shall—*

11 *“(A) be made available at the post office of mail-*
 12 *ing or delivery for examination by the defendant in*
 13 *the presence of a postal employee; and*

14 *“(B) be delivered as addressed if such mail is not*
 15 *clearly shown to be the subject of proceedings under*
 16 *section 3005.*

17 *“(4) No finding of the defendant’s intent to make a*
 18 *false representation or to conduct a lottery is required to*
 19 *support the issuance of an order under this section.*

20 *“(b) If any order is issued under subsection (a) and*
 21 *the proceedings under section 3005 are concluded with the*
 22 *issuance of an order under that section, any judicial review*
 23 *of the matter shall be in the district in which the order*
 24 *under subsection (a) was issued.”.*

25 *(b) REPEAL.—*

1 (1) *IN GENERAL.*—Section 3006 of title 39,
 2 *United States Code*, and the item relating to such sec-
 3 tion in the table of sections for chapter 30 of such title
 4 are repealed.

5 (2) *CONFORMING AMENDMENTS.*—(A) Section
 6 3005(c) of title 39, *United States Code*, is amended by
 7 striking “section and section 3006 of this title,” and
 8 inserting “section,”.

9 (B) Section 3011(e) of title 39, *United States*
 10 *Code*, is amended by striking “3006, 3007,” and in-
 11 serting “3007”.

12 **SEC. 106. CIVIL PENALTIES AND COSTS.**

13 Section 3012 of title 39, *United States Code*, is
 14 amended—

15 (1) in subsection (a) by striking “\$10,000 for
 16 each day that such person engages in conduct de-
 17 scribed by paragraph (1), (2), or (3) of this sub-
 18 section.” and inserting “\$50,000 for each mailing of
 19 less than 50,000 pieces; \$100,000 for each mailing of
 20 50,000 to 100,000 pieces; with an additional \$10,000
 21 for each additional 10,000 pieces above 100,000, not
 22 to exceed \$2,000,000.”;

23 (2) in paragraphs (1) and (2) of subsection (b)
 24 by inserting after “of subsection (a)” the following: “,
 25 (c), or (d)”;

1 (3) *by redesignating subsections (c) and (d), as*
2 *subsections (e) and (f), respectively; and*

3 (4) *by inserting after subsection (b) the fol-*
4 *lowing:*

5 “(c)(1) *In any proceeding in which the Postal Service*
6 *may issue an order under section 3005(a), the Postal Serv-*
7 *ice may in lieu of that order or as part of that order assess*
8 *civil penalties in an amount not to exceed \$25,000 for each*
9 *mailing of less than 50,000 pieces; \$50,000 for each mailing*
10 *of 50,000 to 100,000 pieces; with an additional \$5,000 for*
11 *each additional 10,000 pieces above 100,000, not to exceed*
12 *\$1,000,000.*

13 “(2) *In any proceeding in which the Postal Service*
14 *assesses penalties under this subsection the Postal Service*
15 *shall determine the civil penalty taking into account the*
16 *nature, circumstances, extent, and gravity of the violation*
17 *or violations of section 3005(a), and with respect to the vio-*
18 *lator, the ability to pay the penalty, the effect of the penalty*
19 *on the ability of the violator to conduct lawful business,*
20 *any history of prior violations of such section, the degree*
21 *of culpability and other such matters as justice may re-*
22 *quire.*

23 “(d) *Any person who violates section 3001(l) shall be*
24 *liable to the United States for a civil penalty not to exceed*
25 *\$10,000 for each mailing to an individual.”.*

1 **SEC. 107. ADMINISTRATIVE SUBPOENAS.**

2 (a) *IN GENERAL.*—Chapter 30 of title 39, United
3 States Code, is amended by adding at the end the following:

4 **“§ 3016. Administrative subpoenas**

5 “(a) *SUBPOENA AUTHORITY.*—

6 “(1) *INVESTIGATIONS.*—

7 “(A) *IN GENERAL.*—In any investigation
8 conducted under section 3005(a), the Postmaster
9 General may require by subpoena the production
10 of any records (including books, papers, docu-
11 ments, and other tangible things which constitute
12 or contain evidence) which the Postmaster Gen-
13 eral considers relevant or material to such inves-
14 tigation.

15 “(B) *CONDITION.*—No subpoena shall be
16 issued under this paragraph except in accord-
17 ance with procedures, established by the Postal
18 Service, requiring that—

19 “(i) a specific case, with an individual
20 or entity identified as the subject, be opened
21 before a subpoena is requested;

22 “(ii) appropriate supervisory and legal
23 review of a subpoena request be performed;
24 and

25 “(iii) delegation of subpoena approval
26 authority be limited to the Postal Service’s

1 *General Counsel or a Deputy General Coun-*
 2 *sel.*

3 “(2) *STATUTORY PROCEEDINGS.*—*In any statu-*
 4 *tory proceeding conducted under section 3005(a), the*
 5 *Judicial Officer may require by subpoena the attend-*
 6 *ance and testimony of witnesses and the production*
 7 *of any records (including books, papers, documents,*
 8 *and other tangible things which constitute or contain*
 9 *evidence) which the Judicial Officer considers relevant*
 10 *or material to such proceeding.*

11 “(3) *RULE OF CONSTRUCTION.*—*Nothing in*
 12 *paragraph (2) shall be considered to apply in any*
 13 *circumstance to which paragraph (1) applies.*

14 “(b) *SERVICE.*—

15 “(1) *SERVICE WITHIN THE UNITED STATES.*—*A*
 16 *subpoena issued under this section may be served by*
 17 *a person designated under section 3061 of title 18 at*
 18 *any place within the territorial jurisdiction of any*
 19 *court of the United States.*

20 “(2) *FOREIGN SERVICE.*—*Any such subpoena*
 21 *may be served upon any person who is not to be*
 22 *found within the territorial jurisdiction of any court*
 23 *of the United States, in such manner as the Federal*
 24 *Rules of Civil Procedure prescribe for service in a for-*
 25 *ign country. To the extent that the courts of the*

1 *United States may assert jurisdiction over such per-*
 2 *son consistent with due process, the United States*
 3 *District Court for the District of Columbia shall have*
 4 *the same jurisdiction to take any action respecting*
 5 *compliance with this section by such person that such*
 6 *court would have if such person were personally with-*
 7 *in the jurisdiction of such court.*

8 “(3) *SERVICE ON BUSINESS PERSONS.*—*Service*
 9 *of any such subpoena may be made upon a partner-*
 10 *ship, corporation, association, or other legal entity*
 11 *by—*

12 “(A) *delivering a duly executed copy thereof*
 13 *to any partner, executive officer, managing*
 14 *agent, or general agent thereof, or to any agent*
 15 *thereof authorized by appointment or by law to*
 16 *receive service of process on behalf of such part-*
 17 *nership, corporation, association, or entity;*

18 “(B) *delivering a duly executed copy thereof*
 19 *to the principal office or place of business of the*
 20 *partnership, corporation, association, or entity;*
 21 *or*

22 “(C) *depositing such copy in the United*
 23 *States mails, by registered or certified mail, re-*
 24 *turn receipt requested, duly addressed to such*

1 *partnership, corporation, association, or entity*
 2 *at its principal office or place of business.*

3 “(4) *SERVICE ON NATURAL PERSONS.*—*Service of*
 4 *any subpoena may be made upon any natural person*
 5 *by—*

6 “(A) *delivering a duly executed copy to the*
 7 *person to be served; or*

8 “(B) *depositing such copy in the United*
 9 *States mails, by registered or certified mail, re-*
 10 *turn receipt requested, duly addressed to such*
 11 *person at his residence or principal office or*
 12 *place of business.*

13 “(5) *VERIFIED RETURN.*—*A verified return by*
 14 *the individual serving any such subpoena setting*
 15 *forth the manner of such service shall be proof of such*
 16 *service. In the case of service by registered or certified*
 17 *mail, such return shall be accompanied by the return*
 18 *post office receipt of delivery of such subpoena.*

19 “(c) *ENFORCEMENT.*—

20 “(1) *IN GENERAL.*—*Whenever any person, part-*
 21 *nership, corporation, association, or entity fails to*
 22 *comply with any subpoena duly served upon him, the*
 23 *Postmaster General may request that the Attorney*
 24 *General seek enforcement of the subpoena in the dis-*
 25 *trict court of the United States for any judicial dis-*

1 *trict in which such person resides, is found, or trans-*
 2 *acts business, and serve upon such person a petition*
 3 *for an order of such court for the enforcement of this*
 4 *section.*

5 *“(2) JURISDICTION.—Whenever any petition is*
 6 *filed in any district court of the United States under*
 7 *this section, such court shall have jurisdiction to hear*
 8 *and determine the matter so presented, and to enter*
 9 *such order or orders as may be required to carry into*
 10 *effect the provisions of this section. Any final order*
 11 *entered shall be subject to appeal under section 1291*
 12 *of title 28, United States Code. Any disobedience of*
 13 *any final order entered under this section by any*
 14 *court may be punished as contempt.*

15 *“(d) DISCLOSURE.—Any documentary material pro-*
 16 *vided pursuant to any subpoena issued under this section*
 17 *shall be exempt from disclosure under section 552 of title*
 18 *5, United States Code.”.*

19 *(b) REGULATIONS.—Not later than 120 days after the*
 20 *date of the enactment of this section, the Postal Service shall*
 21 *promulgate regulations setting out the procedures the Postal*
 22 *Service will use to implement the amendment made by sub-*
 23 *section (a).*

24 *(c) SEMIANNUAL REPORTS.—Section 3013 of title 39,*
 25 *United States Code, is amended by striking “and” at the*

1 *end of paragraph (4), by redesignating paragraph (5) as*
 2 *paragraph (6), and by inserting after paragraph (4) the*
 3 *following:*

4 “(5) *the number of cases in which the authority*
 5 *described in section 3016 was used, and a comprehen-*
 6 *sive statement describing how that authority was used*
 7 *in each of those cases; and”.*

8 (d) *TECHNICAL AND CONFORMING AMENDMENT.—The*
 9 *table of sections for chapter 30 of title 39, United States*
 10 *Code, is amended by adding at the end the following:*

 “3016. *Administrative subpoenas.*”.

11 **SEC. 108. REQUIREMENTS OF PROMOTERS OF SKILL CON-**
 12 **TESTS OR SWEEPSTAKES MAILINGS.**

13 (a) *IN GENERAL.—Chapter 30 of title 39, United*
 14 *States Code (as amended by section 107) is amended by*
 15 *adding after section 3016 the following:*

16 **“§3017. Nonmailable skill contests or sweepstakes**
 17 ***matter; notification to prohibit mailings***

18 “(a) *DEFINITIONS.—In this section—*

19 “(1) *the term ‘promoter’ means any person*
 20 *who—*

21 “(A) *originates and mails any skill contest*
 22 *or sweepstakes, except for any matter described*
 23 *in section 3001(k)(4); or*

1 “(B) originates and causes to be mailed any
2 skill contest or sweepstakes, except for any mat-
3 ter described in section 3001(k)(4);

4 “(2) the term ‘removal request’ means a request
5 stating that an individual elects to have the name
6 and address of such individual excluded from any list
7 used by a promoter for mailing skill contests or
8 sweepstakes;

9 “(3) the terms ‘skill contest’, ‘sweepstakes’, and
10 ‘clearly and conspicuously displayed’ have the same
11 meanings as given them in section 3001(k); and

12 “(4) the term ‘duly authorized person’, as used
13 in connection with an individual, means a conser-
14 vator or guardian of, or person granted power of at-
15 torney by, such individual.

16 “(b) NONMAILABLE MATTER.—

17 “(1) IN GENERAL.—Matter otherwise legally ac-
18 ceptable in the mails described in paragraph (2)—

19 “(A) is nonmailable matter;

20 “(B) shall not be carried or delivered by
21 mail; and

22 “(C) shall be disposed of as the Postal Serv-
23 ice directs.

24 “(2) NONMAILABLE MATTER DESCRIBED.—Mat-
25 ter described in this paragraph is any matter that—

1 “(A) is a skill contest or sweepstakes, except
 2 for any matter described in section 3001(k)(4);
 3 and

4 “(B)(i) is addressed to an individual who
 5 made an election to be excluded from lists under
 6 subsection (d); or

7 “(ii) does not comply with subsection (c)(1).

8 “(c) *REQUIREMENTS OF PROMOTERS.*—

9 “(1) *NOTICE TO INDIVIDUALS.*—Any promoter
 10 who mails a skill contest or sweepstakes shall provide
 11 with each mailing a statement that—

12 “(A) is clearly and conspicuously displayed;

13 “(B) includes the address or toll-free tele-
 14 phone number of the notification system estab-
 15 lished under paragraph (2); and

16 “(C) states that the notification system may
 17 be used to prohibit the mailing of all skill con-
 18 tests or sweepstakes by that promoter to such in-
 19 dividual.

20 “(2) *NOTIFICATION SYSTEM.*—Any promoter that
 21 mails or causes to be mailed a skill contest or sweep-
 22 stakes shall establish and maintain a notification sys-
 23 tem that provides for any individual (or other duly
 24 authorized person) to notify the system of the individ-
 25 ual’s election to have the name and address of the in-

1 *dividual excluded from all lists of names and address-*
 2 *es used by that promoter to mail any skill contest or*
 3 *sweepstakes.*

4 *“(d) ELECTION TO BE EXCLUDED FROM LISTS.—*

5 *“(1) IN GENERAL.—An individual (or other duly*
 6 *authorized person) may elect to exclude the name and*
 7 *address of that individual from all lists of names and*
 8 *addresses used by a promoter of skill contests or*
 9 *sweepstakes by submitting a removal request to the*
 10 *notification system established under subsection (c).*

11 *“(2) RESPONSE AFTER SUBMITTING REMOVAL*
 12 *REQUEST TO THE NOTIFICATION SYSTEM.—Not later*
 13 *than 60 calendar days after a promoter receives a re-*
 14 *moval request pursuant to an election under para-*
 15 *graph (1), the promoter shall exclude the individual’s*
 16 *name and address from all lists of names and ad-*
 17 *dresses used by that promoter to select recipients for*
 18 *any skill contest or sweepstakes.*

19 *“(3) EFFECTIVENESS OF ELECTION.—An election*
 20 *under paragraph (1) shall remain in effect, unless an*
 21 *individual (or other duly authorized person) notifies*
 22 *the promoter in writing that such individual—*

23 *“(A) has changed the election; and*

24 *“(B) elects to receive skill contest or sweep-*
 25 *stakes mailings from that promoter.*

1 “(e) *PRIVATE RIGHT OF ACTION.*—

2 “(1) *IN GENERAL.*—*An individual who receives*
 3 *one or more mailings in violation of subsection (d)*
 4 *may, if otherwise permitted by the laws or rules of*
 5 *court of a State, bring in an appropriate court of*
 6 *that State—*

7 “(A) *an action to enjoin such violation;*

8 “(B) *an action to recover for actual mone-*
 9 *tary loss from such a violation, or to receive*
 10 *\$500 in damages for each such violation, which-*
 11 *ever is greater; or*

12 “(C) *both such actions.*

13 *It shall be an affirmative defense in any action*
 14 *brought under this subsection that the defendant has*
 15 *established and implemented, with due care, reason-*
 16 *able practices and procedures to effectively prevent*
 17 *mailings in violation of subsection (d). If the court*
 18 *finds that the defendant willfully or knowingly vio-*
 19 *lated subsection (d), the court may, in its discretion,*
 20 *increase the amount of the award to an amount equal*
 21 *to not more than 3 times the amount available under*
 22 *subparagraph (B).*

23 “(2) *ACTION ALLOWABLE BASED ON OTHER SUF-*
 24 *FICIENT NOTICE.*—*A mailing sent in violation of sec-*
 25 *tion 3001(l) shall be actionable under this subsection,*

1 *but only if such an action would not also be available*
 2 *under paragraph (1) (as a violation of subsection (d))*
 3 *based on the same mailing.*

4 “(f) *PROMOTER NONLIABILITY.*—A promoter shall not
 5 *be subject to civil liability for the exclusion of an individ-*
 6 *ual’s name or address from any list maintained by that*
 7 *promoter for mailing skill contests or sweepstakes, if—*

8 “(1) *a removal request is received by the pro-*
 9 *moter’s notification system; and*

10 “(2) *the promoter has a good faith belief that the*
 11 *request is from—*

12 “(A) *the individual whose name and ad-*
 13 *dress is to be excluded; or*

14 “(B) *another duly authorized person.*

15 “(g) *PROHIBITION ON COMMERCIAL USE OF LISTS.*—

16 “(1) *IN GENERAL.*—

17 “(A) *PROHIBITION.*—No person may pro-
 18 *vide any information (including the sale or rent-*
 19 *al of any name or address) derived from a list*
 20 *described in subparagraph (B) to another person*
 21 *for commercial use.*

22 “(B) *LISTS.*—A list referred to under sub-
 23 *paragraph (A) is any list of names and address-*
 24 *es (or other related information) compiled from*

1 *individuals who exercise an election under sub-*
 2 *section (d).*

3 “(2) *CIVIL PENALTY.*—*Any person who violates*
 4 *paragraph (1) shall be assessed a civil penalty by the*
 5 *Postal Service not to exceed \$2,000,000 per violation.*

6 “(h) *CIVIL PENALTIES.*—

7 “(1) *IN GENERAL.*—*Any promoter—*

8 “(A) *who recklessly mails nonmailable mat-*
 9 *ter in violation of subsection (b) shall be liable*
 10 *to the United States in an amount of \$10,000*
 11 *per violation for each mailing to an individual*
 12 *of nonmailable matter; or*

13 “(B) *who fails to comply with the require-*
 14 *ments of subsection (c)(2) shall be liable to the*
 15 *United States.*

16 “(2) *ENFORCEMENT.*—*The Postal Service shall,*
 17 *in accordance with the same procedures as set forth*
 18 *in section 3012(b), provide for the assessment of civil*
 19 *penalties under this section.”.*

20 “(b) *TECHNICAL AND CONFORMING AMENDMENTS.*—
 21 *The table of sections for chapter 30 of title 39, United States*
 22 *Code, is amended by adding after the item relating to sec-*
 23 *tion 3016 the following:*

“3017. *Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings.*”.

1 (c) *EFFECTIVE DATE.*—*This section shall take effect*
 2 *1 year after the date of the enactment of this Act.*

3 **SEC. 109. STATE LAW NOT PREEMPTED.**

4 (a) *IN GENERAL.*—*Nothing in the provisions of this*
 5 *title (including the amendments made by this title) or in*
 6 *the regulations promulgated under such provisions shall be*
 7 *construed to preempt any provision of State or local law*
 8 *that imposes more restrictive requirements, regulations,*
 9 *damages, costs, or penalties. No determination by the Postal*
 10 *Service that any particular piece of mail or class of mail*
 11 *is in compliance with such provisions of this title shall be*
 12 *construed to preempt any provision of State or local law.*

13 (b) *EFFECT ON STATE COURT PROCEEDINGS.*—*Noth-*
 14 *ing contained in this section shall be construed to prohibit*
 15 *an authorized State official from proceeding in State court*
 16 *on the basis of an alleged violation of any general civil or*
 17 *criminal statute of such State or any specific civil or crimi-*
 18 *nal statute of such State.*

19 **SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.**

20 (a) *REFERENCES TO REPEALED PROVISIONS.*—*Sec-*
 21 *tion 3001(a) of title 39, United States Code, is amended*
 22 *by striking “1714,” and “1718,”.*

23 (b) *CONFORMANCE WITH INSPECTOR GENERAL ACT*
 24 *OF 1978.*—

1 (1) *IN GENERAL.*—Section 3013 of title 39,
2 *United States Code*, is amended—

3 (A) by striking “Board” each place it ap-
4 *pears and inserting “Inspector General”;*

5 (B) in the third sentence by striking “Each
6 *such report shall be submitted within sixty days*
7 *after the close of the reporting period involved”*
8 *and inserting “Each such report shall be sub-*
9 *mitted within 1 month (or such shorter length of*
10 *time as the Inspector General may specify) after*
11 *the close of the reporting period involved”; and*

12 (C) by striking the last sentence and insert-
13 *ing the following:*

14 *“The information in a report submitted under this section*
15 *to the Inspector General with respect to a reporting period*
16 *shall be included as part of the semiannual report prepared*
17 *by the Inspector General under section 5 of the Inspector*
18 *General Act of 1978 for the same reporting period. Nothing*
19 *in this section shall be considered to permit or require that*
20 *any report by the Postmaster General under this section*
21 *include any information relating to activities of the Inspec-*
22 *tor General.”.*

23 (2) *EFFECTIVE DATE.*—This subsection shall take
24 *effect on the date of the enactment of this Act, and the*
25 *amendments made by this subsection shall apply with*

1 *respect to semiannual reporting periods beginning on*
 2 *or after such date of enactment.*

3 (3) *SAVINGS PROVISION.—For purposes of any*
 4 *semiannual reporting period preceding the first semi-*
 5 *annual reporting period referred to in paragraph (2),*
 6 *the provisions of title 39, United States Code, shall*
 7 *continue to apply as if the amendments made by this*
 8 *subsection had not been enacted.*

9 **SEC. 111. EFFECTIVE DATE.**

10 *Except as provided in section 108 or 110(b), this title*
 11 *shall take effect 120 days after the date of the enactment*
 12 *of this Act.*

13 **TITLE II—FEDERAL RESERVE**
 14 **BOARD RETIREMENT PORT-**
 15 **ABILITY**

16 **SEC. 201. SHORT TITLE.**

17 *This title may be cited as the “Federal Reserve Board*
 18 *Retirement Portability Act”.*

19 **SEC. 202. PORTABILITY OF SERVICE CREDIT.**

20 (a) *CREDITABLE SERVICE.—*

21 (1) *IN GENERAL.—Section 8411(b) of title 5,*
 22 *United States Code, is amended—*

23 (A) *by striking “and” at the end of para-*
 24 *graph (3);*

25 (B) *in paragraph (4)—*

1 (i) by striking “of the preceding provi-
 2 sions” and inserting “other paragraph”;
 3 and

4 (ii) by striking the period at the end
 5 and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(5) a period of service (other than any service
 8 under any other paragraph of this subsection, any
 9 military service, and any service performed in the
 10 employ of a Federal Reserve Bank) that was cred-
 11 itable under the Bank Plan (as defined in subsection
 12 (i)), if the employee waives credit for such service
 13 under the Bank Plan and makes a payment to the
 14 Fund equal to the amount that would have been de-
 15 ducted from pay under section 8422(a) had the em-
 16 ployee been subject to this chapter during such period
 17 of service (together with interest on such amount com-
 18 puted under paragraphs (2) and (3) of section
 19 8334(e)).

20 Paragraph (5) shall not apply in the case of any employee
 21 as to whom subsection (g) (or, to the extent subchapter III
 22 of chapter 83 is involved, section 8332(n)) otherwise ap-
 23 plies.”.

1 (2) *BANK PLAN DEFINED.*—Section 8411 of title
 2 5, United States Code, is amended by adding at the
 3 end the following:

4 “(i) For purposes of subsection (b)(5), the term ‘Bank
 5 Plan’ means the benefit structure in which employees of the
 6 Board of Governors of the Federal Reserve System ap-
 7 pointed on or after January 1, 1984, participate, which
 8 benefit structure is a component of the Retirement Plan for
 9 Employees of the Federal Reserve System, established under
 10 section 10 of the Federal Reserve Act (and any redesignated
 11 or successor version of such benefit structure, if so identified
 12 in writing by the Board of Governors of the Federal Reserve
 13 System for purposes of this chapter).”.

14 (b) *EXCLUSION FROM CHAPTER 84.*—

15 (1) *IN GENERAL.*—Paragraph (2) of section
 16 8402(b) of title 5, United States Code, is amended by
 17 striking the matter before subparagraph (B) and in-
 18 serting the following:

19 “(2)(A) any employee or Member who has sepa-
 20 rated from the service after—

21 “(i) having been subject to—

22 “(I) subchapter III of chapter 83
 23 of this title;

1 “(II) subchapter I of chapter 8 of
 2 title I of the Foreign Service Act of
 3 1980; or

4 “(III) the benefit structure for em-
 5 ployees of the Board of Governors of
 6 the Federal Reserve System appointed
 7 before January 1, 1984, that is a com-
 8 ponent of the Retirement Plan for Em-
 9 ployees of the Federal Reserve System,
 10 established under section 10 of the Fed-
 11 eral Reserve Act; and

12 “(ii) having completed—

13 “(I) at least 5 years of civilian
 14 service creditable under subchapter III
 15 of chapter 83 of this title;

16 “(II) at least 5 years of civilian
 17 service creditable under subchapter I of
 18 chapter 8 of title I of the Foreign Serv-
 19 ice Act of 1980; or

20 “(III) at least 5 years of civilian
 21 service (other than any service per-
 22 formed in the employ of a Federal Re-
 23 serve Bank) creditable under the ben-
 24 efit structure for employees of the
 25 Board of Governors of the Federal Re-

1 *serve System appointed before January*
 2 *1, 1984, that is a component of the Re-*
 3 *irement Plan for Employees of the*
 4 *Federal Reserve System, established*
 5 *under section 10 of the Federal Reserve*
 6 *Act,*

7 *determined without regard to any deposit or*
 8 *redeposit requirement under either such sub-*
 9 *chapter or under such benefit structure, or*
 10 *any requirement that the individual become*
 11 *subject to either such subchapter or to such*
 12 *benefit structure after performing the service*
 13 *involved; or”.*

14 (2) *EXCEPTION.—Subsection (d) of section 8402*
 15 *of title 5, United States Code, is amended to read as*
 16 *follows:*

17 “(d) *Paragraph (2) of subsection (b) shall not apply*
 18 *to an individual who—*

19 *“(1) becomes subject to—*

20 *“(A) subchapter II of chapter 8 of title I of*
 21 *the Foreign Service Act of 1980 (relating to the*
 22 *Foreign Service Pension System) pursuant to an*
 23 *election; or*

24 *“(B) the benefit structure in which employ-*
 25 *ees of the Board of Governors of the Federal Re-*

1 *serve System appointed on or after January 1,*
 2 *1984, participate, which benefit structure is a*
 3 *component of the Retirement Plan for Employees*
 4 *of the Federal Reserve System, established under*
 5 *section 10 of the Federal Reserve Act (and any*
 6 *redesignated or successor version of such benefit*
 7 *structure, if so identified in writing by the*
 8 *Board of Governors of the Federal Reserve Sys-*
 9 *tem for purposes of this chapter); and*
 10 *“(2) subsequently enters a position in which, but*
 11 *for paragraph (2) of subsection (b), such individual*
 12 *would be subject to this chapter.”.*

13 *(c) PROVISIONS RELATING TO CERTAIN FORMER EM-*
 14 *PLOYEES.—A former employee of the Board of Governors*
 15 *of the Federal Reserve System who—*

16 *(1) has at least 5 years of civilian service (other*
 17 *than any service performed in the employ of a Fed-*
 18 *eral Reserve Bank) creditable under the benefit struc-*
 19 *ture for employees of the Board of Governors of the*
 20 *Federal Reserve System appointed before January 1,*
 21 *1984, that is a component of the Retirement Plan for*
 22 *Employees of the Federal Reserve System, established*
 23 *under section 10 of the Federal Reserve Act;*

24 *(2) was subsequently employed subject to the ben-*
 25 *efit structure in which employees of the Board of Gov-*

1 *ernors of the Federal Reserve System appointed on or*
 2 *after January 1, 1984, participate, which benefit*
 3 *structure is a component of the Retirement Plan for*
 4 *Employees of the Federal Reserve System, established*
 5 *under section 10 of the Federal Reserve Act (and any*
 6 *redesignated or successor version of such benefit struc-*
 7 *ture, if so identified in writing by the Board of Gov-*
 8 *ernors of the Federal Reserve System for purposes of*
 9 *chapter 84 of title 5, United States Code); and*

10 *(3) after service described in paragraph (2), be-*
 11 *comes subject to and thereafter entitled to benefits*
 12 *under chapter 84 of title 5, United States Code,*
 13 *shall, for purposes of section 302 of the Federal Employees'*
 14 *Retirement System Act of 1986 (100 Stat. 601; 5 U.S.C.*
 15 *8331 note) be considered to have become subject to chapter*
 16 *84 of title 5, United States Code, pursuant to an election*
 17 *under section 301 of such Act.*

18 *(d) EFFECTIVE DATE.—*

19 *(1) IN GENERAL.—Subject to succeeding provi-*
 20 *sions of this subsection, this section and the amend-*
 21 *ments made by this section shall take effect on the*
 22 *date of the enactment of this Act.*

23 *(2) PROVISIONS RELATING TO CREDITABILITY*
 24 *AND CERTAIN FORMER EMPLOYEES.—The amend-*
 25 *ments made by subsection (a) and the provisions of*

1 subsection (c) shall apply only to individuals who
 2 separate from service subject to chapter 84 of title 5,
 3 United States Code, on or after the date of the enact-
 4 ment of this Act.

5 (3) PROVISIONS RELATING TO EXCLUSION FROM
 6 CHAPTER.—The amendments made by subsection (b)
 7 shall not apply to any former employee of the Board
 8 of Governors of the Federal Reserve System who, sub-
 9 sequent to his or her last period of service as an em-
 10 ployee of the Board of Governors of the Federal Re-
 11 serve System and prior to the date of the enactment
 12 of this Act, became subject to subchapter III of chap-
 13 ter 83 or chapter 84 of title 5, United States Code,
 14 under the law in effect at the time of the individual's
 15 appointment.

16 **SEC. 203. CERTAIN TRANSFERS TO BE TREATED AS A SEPA-**
 17 **RATION FROM SERVICE FOR PURPOSES OF**
 18 **THE THRIFT SAVINGS PLAN.**

19 (a) AMENDMENTS TO CHAPTER 84 OF TITLE 5,
 20 UNITED STATES CODE.—

21 (1) IN GENERAL.—Subchapter III of chapter 84
 22 of title 5, United States Code, is amended by insert-
 23 ing before section 8432 the following:

1 **“§8431. Certain transfers to be treated as a separa-**
 2 **tion**

3 “(a) *For purposes of this subchapter, separation from*
 4 *Government employment includes a transfer from a posi-*
 5 *tion that is subject to one of the retirement systems de-*
 6 *scribed in subsection (b) to a position that is not subject*
 7 *to any of them.*

8 “(b) *The retirement systems described in this sub-*
 9 *section are—*

10 “(1) *the retirement system under this chapter;*

11 “(2) *the retirement system under subchapter III*
 12 *of chapter 83; and*

13 “(3) *any other retirement system under which*
 14 *individuals may contribute to the Thrift Savings*
 15 *Fund through withholdings from pay.”.*

16 (2) *CLERICAL AMENDMENT.—The table of sec-*
 17 *tions for chapter 84 of title 5, United States Code, is*
 18 *amended by inserting before the item relating to sec-*
 19 *tion 8432 the following:*

“8431. *Certain transfers to be treated as a separation.*”.

20 (b) *CONFORMING AMENDMENTS.—Subsection (b) of*
 21 *section 8351 of title 5, United States Code, is amended by*
 22 *redesignating paragraph (11) as paragraph (8), and by*
 23 *adding at the end the following:*

1 “(9) *For the purpose of this section, separation*
 2 *from Government employment includes a transfer de-*
 3 *scribed in section 8431.*”.

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 5 *section shall apply with respect to transfers occurring be-*
 6 *fore, on, or after the date of the enactment of this Act, except*
 7 *that, for purposes of applying such amendments with re-*
 8 *spect to any transfer occurring before such date of enact-*
 9 *ment, the date of such transfer shall be considered to be the*
 10 *date of the enactment of this Act. The Executive Director*
 11 *(within the meaning of section 8401(13) of title 5, United*
 12 *States Code) may prescribe any regulations necessary to*
 13 *carry out this subsection.*

14 **SEC. 204. CLARIFYING AMENDMENTS.**

15 (a) *IN GENERAL.*—*Subsection (f) of section 3304 of*
 16 *title 5, United States Code, as added by section 2 of Public*
 17 *Law 105–339, is amended—*

18 (1) *by striking paragraph (4);*

19 (2) *by redesignating paragraphs (2) and (3) as*
 20 *paragraphs (3) and (4), respectively; and*

21 (3) *by inserting after paragraph (1) the fol-*
 22 *lowing:*

23 “(2) *If selected, a preference eligible or veteran de-*
 24 *scribed in paragraph (1) shall acquire competitive status*

1 *and shall receive a career or career-conditional appoint-*
 2 *ment, as appropriate.”.*

3 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
 4 *section (a) shall take effect as if enacted on October 31,*
 5 *1998.*

6 ***TITLE III—AMENDMENT TO THE***
 7 ***FEDERAL PROPERTY AND AD-***
 8 ***MINISTRATIVE SERVICES ACT***
 9 ***OF 1949***

10 ***SEC. 301. TRANSFER OF CERTAIN PROPERTY TO STATE AND***
 11 ***LOCAL GOVERNMENTS.***

12 *Section 203(p)(1)(B)(ii) of the Federal Property and*
 13 *Administrative Services Act of 1949 (40 U.S.C.*
 14 *484(p)(1)(B)(ii)) is amended by striking “December 31,*
 15 *1999.” and inserting “July 31, 2000. During the period*
 16 *beginning January 1, 2000, and ending July 31, 2000, the*
 17 *Administrator may not convey any property under sub-*
 18 *paragraph (A), but may accept, consider, and approve ap-*
 19 *plications for transfer of property under that subpara-*
 20 *graph.”.*

Attest:

Clerk.